

<b>ORIGINAL</b>		<b>THIS AMENDMENT:</b>
_____ Passed _____	Passed as amended by _____	
_____ Failed _____	Not Offered _____	
<b>RECEIVED</b>		



2006 APR 11 P 2:20

**SPITZER PROPOSED AMENDMENT #1**

AZ CORP COMMISSION  
DOCUMENT CONTROL

TIME/DATE PREPARED: 2:00 p.m. / April 11, 2006

COMPANY: Tucson Electric Power Company

AGENDA ITEM NO. U-2

DOCKET NO. E-01933A-05-0650

OPEN MEETING DATE: April 12, 2006

**Page 11, lines 1-3: DELETE** all of current Finding of Fact No. 42

**INSERT** as in its place: "The meaning of Decision No. 62103 and the 1999 Settlement Agreement, and their effect on rates after 2008, is currently in dispute. Moreover, the parties to the 1999 Settlement Agreement, including Commission staff, should fully explore various means of resolving whether that settlement should be unwound, amended or novated. Subsequent proceedings should be open to all, including those not parties to the original Settlement. We believe the disputed terms of the Settlement should be resolved as soon as possible."

**Page 11, lines 9-16: DELETE** all of current Finding of Fact No. 44

**INSERT** the following in its place:

"TEP filed Exceptions to the Recommended Opinion and Order. TEP argues that Decision No. 62103 and the 1999 Settlement Agreement give it the right to charge market-based rates for generation under the MGC after 2008. TEP argues that it, and its customers, deserve certainty. TEP suggests that we conduct a hearing pursuant to A.R.S. § 40-252 to consider the Motion to Amend."

**Page 11, lines 17-23: DELETE** all of current Finding of Fact No. 45

**INSERT** the following in its place: "We agree with TEP that resolving this dispute as soon as possible is in the public interest."

**Page 12, lines 1-17: DELETE** all of current Findings of Fact Nos. 47 through 50

**INSERT** the following as Finding of Fact No. 47: "We agree that a hearing should be held under A.R.S. § 40-252 to consider amending Decision No. 62103 and the 1999 Settlement Agreement. The hearing, at a minimum, shall address the following issues: the viability of the 1999 Settlement in light of the Track A, Track B and the *Phelps Dodge*<sup>1</sup> decisions, (including a discussion and presentation of evidence regarding the individual parties' opinions of whether TEP will be able to charge market-based rates or cost-of-service rates after 2008), the proposals outlined in TEP's original application, Demand Side Management, Renewable Energy Standards, and Time of Use tariffs. Accordingly, we direct the Hearing Division to schedule a hearing to consider amending Decision No. 62103.

<sup>1</sup> *Phelps Dodge Corp. v. Arizona Electric Power Co-op., Inc.*, 207 Ariz. 95, 83 P.3d 573 (App.2004)

**Page 12, lines 1-17: INSERT** the following as Finding of Fact No. 48: "The Hearing Division shall establish a procedural schedule in this matter. The schedule should allow for an expeditious but complete review of these matters."

**Page 12, lines 18-20: RENUMBER** Finding of Fact No. 5 1.

**Page 12, line 26-27: DELETE** current Conclusion of Law No. 4

**INSERT** the following in its place: "It is in the public interest to conduct a hearing under A.R.S. § 40- 252 to consider the matters discussed herein."

**Page 13, lines 2-6: DELETE** first two ordering paragraphs

**INSERT** the following in their place: "IT IS THEREFORE ORDERED that the Hearing Division shall conduct further proceedings in accordance with the discussion herein."